

## **REMARKS/ARGUMENTS**

### **1.) Claim Amendments**

The Applicant has amended claims 25, 33 and 44 to more particularly point out and distinctly claim the subject matter that Applicants regard as their invention; no new matter has been added. Claims 25-48 remain pending in the application. Favorable reconsideration of the application is respectfully requested in view of the foregoing amendments and the following remarks.

### **2.) Examiner Objections – Specification**

The Examiner objected to the specification for certain specified informalities. The Applicants have amended the specification as suggested by the Examiner.

### **3.) Claim Rejections – 35 U.S.C. §102(b)**

The Examiner has rejected claims 25, 26, 30, 33, 41 and 42 as being anticipated by Cheng (U.S. Patent Publication No. 2003/0224774), and claims 44 and 45 as being anticipated by Schramm, *et al.* (U.S. Patent No. 6,542,742). The Applicants traverse the rejections.

It is to be remembered that anticipation requires that the disclosure of a single piece of prior art reveals **every** element, or limitation, of a claimed invention. Furthermore, the limitations that must be met by an anticipatory reference are those set forth in each statement of function in a claims limitation, and such a limitation cannot be met by an element in a reference that performs a different function, even though it may be part of a device embodying the same general overall concept. Whereas Cheng and Schramm fail to anticipate each and every limitation of claims 25, 26, 30, 33, 41, 42, 44 and 45, those claims are not anticipated thereby.

#### **Claims 25, 26, 30, 33, 41 and 42**

Claim 25 recites:

25. A method for a cellular mobile communications system, comprising the steps of:

selecting an active set of base stations from a plurality of base stations, wherein each base station in said active set is capable of providing parallel radio links with a mobile station;  
transmitting a packet from the mobile station on a radio uplink;  
transmitting, from each of the base stations of the active set to the mobile station, a measure of the quality of the radio uplink made during receipt of said packet;

selecting, by said mobile station, only one base station from the active set of base stations based upon said quality measures;  
transmitting information identifying the selected base station from the mobile station; and,

forwarding the previously-received packet on a fixed link only from the selected base station. (emphasis added)

As described at page 4, line 21 *et seq.*, the Applicants' invention is directed to allowing a mobile station to control uplink selection combining instead of having a combiner node in the fixed portion of the network. This is accomplished by the mobile station identifying, in response to receiving radio uplink quality measurements from each base station which receives a packet, only one of the base stations which should forward a received packet on the base stations fixed link to the network. The mobile station transmits information identifying the selected base station. A base station that previously received a packet from the mobile station, and which receives the information identifying it as the selected base station, then forwards the packet on its fixed link to the network.

Cheng is directed to a handoff mechanism. It is inherent in such a mechanism that a mobile station can simultaneously transmit signals that are received by more than one base station. The process described by Cheng, however, is directed solely to handing over communication between a mobile station and a first base station to a second base station. The Applicants' invention is directed to eliminating the need for a conventional combiner in the network; a combiner is typically used to perform error checking on received radio frames and selects the one that has been received error free. In contrast to such conventional combiners in the fixed portion of the network, the Applicants' invention provides functionality that allows a mobile station to select which of a plurality of receiving base stations will forward received packets to the fixed portion of the network. That functionality is not disclosed by Cheng. Therefore, claim 25 is not

anticipated by that reference. Whereas claim 33 recites analogous limitations, it is also not anticipated by Cheng. Furthermore, whereas claims 26 and 30 are dependent from claim 25, and claims 41 and 42 are dependent from claim 33, and include the limitations of their respective base claims, they are also not anticipated by Cheng.

**Claims 44 and 45**

Claim 44 recites:

44. A base station having means to receive a packet from a mobile station and means to send an acknowledgement to the mobile station in response to the received packet, said base station comprising:

means for detecting information from the mobile station that identifies a specific base station selected by said mobile station for forwarding said received packet; and,

means for selectively forwarding the received packet further in a connected radio network only when said detecting means detects that the base station is identified as being selected by said mobile station. (emphasis added)

As described *supra*, the Applicants' invention is characterized by mobile stations that identify, in response to receiving radio uplink quality measurements from each base station which receives a packet, only one of the base stations which should forward a received packet on the base stations fixed link to the network. The mobile station transmits information identifying the selected base station; claim 44 is directed to a base station adapted to utilize the receipt of the information transmitted by such mobile stations. According to claim 44, a base station in accordance with the principles of the invention can detect information received from a mobile station that identifies a specific base station selected by the mobile station for forwarding a received packet. If the information received by the base station identifies it as the specific base station, it then forwards the previously-received packet on its fixed link to the network. Although Schramm is also in the field of cell selection, it does not disclose the receipt of such information from a mobile station, nor the selective forwarding of a packet received from the mobile station only if the base station is identified in the information as the base station selected by the mobile station for forwarding to the fixed portion of the network. Therefore, claim 44 is not anticipated by Schramm. Whereas claim 45 is dependent

from claim 44, and includes the limitations thereof, it is also not anticipated by Schramm.

**4.) Claim Rejections – 35 U.S.C. §103(a)**

The Examiner has rejected claims 28, 29, 38, 40 and 43 as being unpatentable over Cheng in view of Longoni, *et al.* (U.S. Patent No. 6,493,564); claims 27, 31, 32 and 39 as being unpatentable over Cheng in view of Baker, *et al.* (U.S. Patent Publication No. 2002/0119778); claims 34 and 35 as being unpatentable over Cheng in view of Virtanen (U.S. Patent No. 6,570,862); claims 36 and 37 as being unpatentable over Cheng in view of Love, *et al.* (U.S. Patent Publication No. 2004/0219917); claims 46 and 47 as being unpatentable over Schramm, *et al.* (U.S. Patent No. 6,542,742) in view of Haas (U.S. Patent No. 5,774,814); and claim 48 as being unpatentable over Schramm in view of Kondo (U.S. Patent No. 5,722,080). The Applicants traverse the rejections.

As established *supra*, independent claims 25, 33 are not anticipated by Cheng and claim 44 is not anticipated by Schramm. Furthermore, nothing in those references would render claims 25, 33 and 44 obvious. Therefore, whereas claims 27-29, 31, 32, 34-40, 43 and 46-48 are dependent from those claims, and include the limitations thereof, they are also not obvious over any of the combined references.

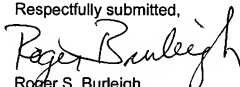
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### **CONCLUSION**

In view of the foregoing amendments and remarks, the Applicants believe all of the claims currently pending in the Application to be in a condition for allowance. The Applicants, therefore, respectfully request that the Examiner withdraw all rejections and issue a Notice of Allowance for claims 25-48.

The Applicants request a telephonic interview if the Examiner has any questions or requires any additional information that would further or expedite the prosecution of the Application.

Respectfully submitted,



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